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18 UNITED STATES DISTRICT COURT
19 NORTHERN DISTRICT OF CALIFORNIA

20 KIMBERLY WILLIAMS, on behalf of
21 herself and all others similarly situated,

22 Plaintiff,

23 v.

24 NETFLIX, INC.; WAL-MART STORES,
25 INC.; and WALMART.COM USA LLC,

26 Defendants.

Case No. CV-09-0678-BZ

**ADMINISTRATIVE MOTION TO
CONSIDER WHETHER CASES
SHOULD BE RELATED**

DATE: N/A

TIME: N/A

JUDGE: The Honorable Bernard Zimmerman

1 Pursuant to Local Rule 3-12(b), Plaintiff Kimberly Williams, plaintiff in Case No. 09-cv-
2 0678-BZ (*Williams v. Netflix, Inc., et al.*), respectfully submits this administrative motion for the
3 Court to consider whether *Williams v. Netflix, Inc., et al.*, a putative class action lawsuit filed on
4 February 17, 2009, should be related to *Andrea Resnick, et al. v. Walmart.com USA LLC, et al.*,
5 Case No 09-cv-0002, filed on January 2, 2009, an action also pending in this District. That action
6 has been assigned to the Honorable Phyllis J. Hamilton. In addition to the *Resnick* action, other
7 related actions pending in this District are:

- 8 • *O'Connor v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00096 (N.D. Cal.), filed
9 January 9, 2009;
- 10 • *Endzweig v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00111 (N.D. Cal.), filed January
11 9, 2009;
- 12 • *Schmitz v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00116 (N.D. Cal.), filed January
13 9, 2009;
- 14 • *Lynch, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00138 (N.D. Cal.), filed
15 January 12, 2000;
- 16 • *Groce, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00139 (N.D. Cal.), filed
17 January 12, 2009;
- 18 • *Sivek v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00156 (N.D. Cal.), filed January 13,
19 2009;
- 20 • *Faris v. Netflix, Inc., et al.*, Case No. 09-cv-00180 (N.D. Cal.), filed January 14, 2009;
- 21 • *Slobodin v. Netflix, Inc., et al.*, Case No. 09-cv-00225 (N.D. Cal.), filed January 16, 2009;
- 22 • *Anthony, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00236 (N.D. Cal.); filed
23 January 20, 2009;
- 24 • *Polk-Stamps v. Netflix, Inc., et al.*, Case No. 09-cv-00244 (N.D. Cal.), filed January 20, 2009;
- 25 • *Sheeler v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00274 (N.D. Cal.), filed January
26 22, 2009;
- 27 • *Chapman v. Netflix, Inc., et al.*, Case No. 09-cv-00294 (N.D. Cal.), filed January 22, 2009;
- 28 • *Orozco v. Netflix, Inc., et al.*, Case No. 09-cv-00297 (N.D. Cal.), filed January 22, 2009;

- 1 • *Landels, et al. v. Netflix Inc., et al.*, Case No. 09-cv-00340 (N.D. Cal.), filed January 26,
2 2009;
- 3 • *Grime v. Netflix Inc., et al.*, Case No. 09-cv-00349 (N.D. Cal.), filed January 26, 2009;
- 4 • *Meyer v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00361 (N.D. Cal.), filed January
5 26, 2009;
- 6 • *Randall v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00368 (N.D. Cal.), filed January
7 27, 2009;
- 8 • *Miscioscia v. Netflix, Inc., et al.*, Case No. 09-cv-00377 (N.D. Cal.), filed January 27, 2009;
- 9 • *Hirsch v. Netflix, Inc., et al.*, Case No. 09-cv-00375 (N.D. Cal.), filed January 27, 2009;
- 10 • *Patras, et al. v. Netflix, Inc., et al.*, Case No. 09-cv-00378 (N.D. Cal.), filed January 27,
11 2009;
- 12 • *Chatelain v. Netflix, Inc., et al.*, Case No. 09-cv-00391 (N.D. Cal.), filed January 28, 2009;
- 13 • *Weiner v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00398 (N.D. Cal.), filed January
14 28, 2009;
- 15 • *Millrood v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00399 (N.D. Cal.), filed January
16 28, 2009;
- 17 • *Kober v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00400 (N.D. Cal.), filed January 28,
18 2009;
- 19 • *LaCabe v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00402 (N.D. Cal.), filed January
20 28, 2009;
- 21 • *Roy v. Netflix, Inc., et al.*, Case No. 09-cv-00434 (N.D. Cal.), filed January 29, 2009;
- 22 • *Bruno, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00445 (N.D. Cal.), filed
23 January 30, 2009;
- 24 • *Zaker v. Netflix, Inc., et al.*, Case No. 09-cv-00447 (N.D. Cal.), filed January 30, 2009;
- 25 • *Parikh v. Netflix, Inc., et al.*, Case No. 09-cv-00496 (N.D. Cal.), filed February 3, 2009;
- 26 • *Johnson v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00553 (N.D. Cal.), filed February
27 5, 2009; and
- 28 • *Gannon v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00554 (N.D. Cal.), filed February
5, 2009.

1
2 On February 17, 2009, the Williams Plaintiff filed an action under sections 1 and 2 of the
3 Sherman Act, alleging that on or about May 19, 2005, Defendants Netflix, Inc. ("Netflix"), Wal-
4 Mart Stores, Inc. ("Wal-Mart Stores"), and Walmart.com USA LLC ("Walmart.com"), a wholly
5 owned subsidiary of Wal-Mart Stores, entered into a contract, combination and conspiracy to divide
6 and allocate the market for the online rentals of Digital Video Discs ("DVDs") and the sale of new
7 DVDs in the United States. The purpose and effect of this agreement was to divide and allocate the
8 market for and to monopolize and unreasonably restrain trade for online DVD rentals. The alleged
9 conspiracy enabled Netflix to charge its customers higher subscription prices for the rental of DVDs
10 than it otherwise would have. As a result of Defendants' contract, combination, and conspiracy, as
11 well as Netflix's unlawfully acquired and maintained market and monopoly power, Netflix actually
12 did charge Plaintiff supracompetitive subscription prices for the rental of DVDs. Plaintiff and all
13 other similarly situated direct purchasers in fact paid higher subscription prices.

14 The *O'Connor*, *Endzweig*, *Schmitz*, *Lynch*, and *Groce* actions were ordered related to the
15 *Resnick* action on January 16, 2009. The *Sivek*, *Faris*, and *Anthony* actions were ordered related to
16 the *Resnick* action on January 26, 2009. The *Slobodin*, *Polk-Stamps*, *Chapman*, and *Orozco* actions
17 were ordered related to the *Resnick* action on January 29, 2009. The *Sheeler*, *Landels*, *Grime*,
18 *Meyer*, *Randall*, *Miscioscia*, *Hirsch* and *Chatelain* actions were ordered related to the *Resnick*
19 action on February 2, 2009. The *Patras*, *Weiner*, *Millrood*, *Kober*, *LaCabe*, *Roy*, *Bruno*, *Zaker*,
20 *Parikh*, *Johnson* and *Gannon* actions were ordered related to the *Resnick* action on February 9,
21 2009. All of these related actions have been assigned to the Honorable Phyllis J. Hamilton. This
22 action (*Williams*) has not been related to the *Resnick* action as of the filing of this Administrative
23 Motion.

24 The allegations of the Williams Plaintiff are substantially similar to those in the complaints
25 listed above, also filed in this District. All actions involve the same defendants, Netflix, Wal-Mart
26 Stores and Walmart.com, and allege Defendants' misconduct in raising the subscription prices for
27 online DVD rentals in violation of Sections 1 and 2 of the Sherman Act. There can be no dispute
28

1 that the Williams Action is related to the above cases under Civil Local Rule 3-12(a). The actions
2 concern substantially the same parties and events; and it appears likely that there will be an unduly
3 burdensome duplication of labor and expense or conflicting results if the cases are conducted before
4 different judges.

5 All thirty-three cases pending in this District are at a preliminary stage and assignment to a
6 single judge thus would not prejudice any other parties. Because Judge Hamilton is familiar with
7 the facts, the parties and the claims, it would be an unduly burdensome duplication of labor and
8 expense if the cases are conducted before different judges. Relating this action to the *Resnick* action
9 will also remove the risk of potential conflicting results. Pursuant to Local Rule 3-12, the Williams
10 Plaintiff respectfully requests that the action entitled *Williams v. Netflix, Inc., et al.*, be deemed
11 related to *Resnick, et al. v. Walmart.com USA LLC, et al.*, Case No. 09-cv-00002-PJH, the first filed
12 case in this District, which is presently assigned to the Honorable Phyllis J. Hamilton.

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14 Dated: February 19, 2009

Respectfully submitted,

KAPLAN, FOX & KILSHEIMER, LLP

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16
17 /s/ Lori S. Brody

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